

**Cheryl R. Winn**  
**Attorney At Law**

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JAN 17 2008

PUBLIC SERVICE  
COMMISSION

January 17, 2008

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

Re: Shirley J. Day, Complainant, v. AT&T Communications of the South  
Central States, Inc.

Dear Ms. O'Donnell:

Enclosed for filing in the above-captioned case are the original and ten (10)  
copies of Answer and Motion to Dismiss of AT&T Communications of the South Central  
States, Inc.

Sincerely,

  
Cheryl R. Winn

cc: Shirley J. Day

Enclosure

710799

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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JAN 17 2008

PUBLIC SERVICE  
COMMISSION

In the Matter of:

SHIRLEY J. DAY )  
 )  
 COMPLAINANT )  
 )  
 v. )  
 )  
 AT&T COMMUNICATIONS OF THE )  
 SOUTH CENTRAL STATES, INC. )  
 )  
 DEFENDANT )

CASE NO. 2007-00552

**ANSWER AND MOTION TO DISMISS OF AT&T COMMUNICATIONS  
OF THE SOUTH CENTRAL STATES, INC.**

The Defendant, AT&T Communications of the South Central States, Inc. ("AT&T"), by counsel, for its answer and motion to dismiss the complaint of Shirley J. Day ("Ms. Day"), states as follows:

**FIRST DEFENSE**

1. The Complaint fails to state a cause of action upon which relief can be granted.

**SECOND DEFENSE**

2. AT&T affirmatively pleads the defense of accord and satisfaction. Ms. Day's prayer for relief, Attachment B to the Complaint, requested AT&T drop any charges and no longer contact her with solicitations of any kind. Specifically, as a result of the informal PSC appeal case (2007-02213), AT&T previously resolved Ms. Day's complaint on November 19, 2007, when it issued a good faith adjustment to her account for 100% of the disputed charges, \$53.23, leaving a zero balance on the AT&T account. Additionally, AT&T has taken the appropriate internal measures to place Ms. Day on its internal Do Not Call lists for all local and

long distance services on January 10 and January 16, 2008, respectively. Accordingly, AT&T has satisfied the demand of the Complaint; therefore, the Complaint should be dismissed.

### **THIRD DEFENSE**

3. With regard to the allegations contained in grammatical paragraph 1 of Attachment A of Ms. Day's Complaint, AT&T admits only that its business records reflect that Ms. Day established wireline service with BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") (formerly BellSouth Telecommunications, Inc.) on or about April 15, 1999, with account number 270 725 9794 588 and a service address of 871 Buena Vista Road, Russellville, Kentucky 42275. AT&T denies the allegation in grammatical paragraph 1 of Attachment A of Ms. Day's Complaint that Ms. Day elected not to have a long distance carrier, AT&T affirmatively states its business records reflect Ms. Day selected AT&T Corp (0288) as her interLATA (long distance) service carrier on or about March 25, 2002. AT&T maintains a detailed record of all transactions for a period of twenty-four (24) months and, due to the date of the transaction, no longer has any further records available to it with respect to the specifics of the carrier change request. AT&T further states that on or about September 24, 2007, pursuant to a request by Ms. Day, her long distance selection was changed to an interLATA (long distance) carrier of "none." With respect to the remaining allegations contained in grammatical paragraph 1 of Attachment A of Ms. Day's complaint, AT&T is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations; and therefore, denies the same.

4. With respect to the allegations contained in grammatical paragraph 2 of Attachment A of Ms. Day's Complaint, AT&T Kentucky states it reviewed its bills for 2004 and found no AT&T long distance charges billed to the account. AT&T has a document retention

period of eighteen months for billing records and is, therefore, without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in grammatical paragraph 2 of Attachment A to Ms. Day's Complaint and, therefore, denies the same.

5. With respect to the allegations contained in grammatical paragraph 3 of Attachment A of the Complaint, AT&T admits only that it mailed Ms. Day a bill in September 2007 for \$13.25, in August of 2007 for \$10.25, and in July 2007 for \$29.73. With respect to the remaining allegations contained in grammatical paragraph 3 of Attachment A of the Complaint, AT&T is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and, therefore, denies the same.

6. With respect to the allegations contained in grammatical paragraph 4 of Attachment A of the Complaint, AT&T admits only that it billed Ms. Day in October of 2007, for the past due amount of \$53.23. AT&T affirmatively states it does have some call centers overseas. With respect to the remaining allegations contained in grammatical paragraph 4 of Attachment A of the Complaint, AT&T is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and, therefore, denies the same.

7. With respect to the allegations contained in grammatical paragraph 5 of Attachment A of the Complaint, AT&T admits only that Ms. Day made an informal complaint to the PSC on or about September 13, 2007, and AT&T responded directly to Ms. Day via a letter dated September 17, 2007. Additionally, AT&T responded to Matt Rhody of the PSC on or about October 23, 2007. AT&T states its responses of September 17, 2007, and October 23, 2007, to Ms. Day's informal PSC complaint speak for themselves, therefore, AT&T denies the remaining allegations contained grammatical paragraph 5 of Attachment A of the Complaint.

8. With respect to the allegations contained in grammatical paragraph 6 of Attachment A of the Complaint, AT&T admits only that it contacted Ms. Day on or about November 15, 2007, to discuss the contents of its September 17, 2007, response to her concerning her informal PSC complaint.

9. With respect to the allegations contained in grammatical paragraph 7 of Attachment A of the Complaint, AT&T affirmatively states the charges on Ms. Day's account were appropriately billed, however, as a goodwill measure, the charges were adjusted from the account on or about November 19, 2007, which left a zero balance on the account. AT&T is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in grammatical paragraph 7 of Attachment A of the Complaint and, therefore, denies the same.

10. With respect to the allegations contained in grammatical paragraph 8 of Attachment A of the Complaint, AT&T admits only that the charges were appropriately billed for its services rendered but it adjusted the charges on a one time basis as a goodwill measure on or about November 19, 2007, leaving a zero balance on the account. With respect to the remaining allegations contained in grammatical paragraph 8 of Attachment A of the Complaint, AT&T is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and, therefore, denies the same.

11. With respect to the allegations contained in grammatical paragraph 9 of Attachment A of the Complaint, AT&T admits only that Ms. Day could have been receiving solicitations for a variety of services including changing existing calling plans, upgrading services, etc. AT&T affirmatively states that on or about January 10 and January 16, 2008, respectively, steps were taken to add Ms. Day's telephone number to its internal Do Not Call

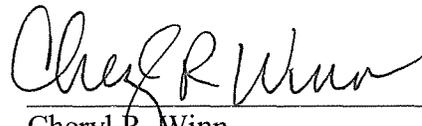
lists. The implementation of its action should be completed within thirty (30) days. With respect to the remaining allegations contained in grammatical paragraph 9 of Attachment A of the Complaint, AT&T is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and, therefore, denies the same.

12. With respect to the allegations contained in grammatical paragraph 1 of Attachment B of the Complaint, AT&T states on or about November 19, 2007, it issued an adjustment for 100% of the disputed calls. AT&T further states that Ms. Day has been added to AT&T-KY's internal Do Not Call list as of January 10, 2008, and to AT&T's Do Not Call list as of January 16, 2008. AT&T states its steps to ensure Ms. Day will not receive solicitation calls from it should be effective within thirty (30) days. With respect to the remaining allegations contained in grammatical paragraph 1 of Attachment B of the Complaint, AT&T is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and, therefore, denies the same.

13. With respect to the allegations contained in grammatical paragraph 2 of Attachment B of the Complaint, AT&T denies the allegations.

14. All allegations contained in the Complaint not specifically admitted are denied. WHEREFORE, AT&T Communications of the South Central States respectfully requests that this Complaint be dismissed and held for naught and it be granted any and all other relief to which it may appear entitled.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cheryl R. Winn". The signature is written in black ink and is positioned above a horizontal line.

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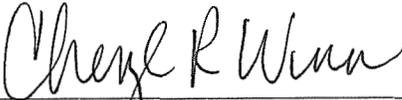
COUNSEL FOR AT&T COMMUNICATIONS  
OF THE SOUTH CENTRAL STATES, INC.

710513

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following individual by mailing a copy thereof, this 17th day of January 2008.

Shirley J. Day  
871 Buena Vista Road  
Russellville, KY 42276

  
Cheryl R. Winn